P 55E

App. F. IX-4

193 .

(bs)

File No. 11-36

Serial Nos. 86 (21 204

Previous References

bs 67-25 (1-32-3)
E.C 27-20 (18 20.35)

Letter References.

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for

SUBJECT.

Amendment of the Cooperative Societies Act relating to the matter of the Applicability of the Law of Limitation to Cooperative disputes

WD 0418—GPB—22,500—29-8-36

5345

GENERAL AND REVENUE SECRETARIAT.

(b.s.)

NOTES.

File No. 11-36

FILE HEADING.

Recommendations of the Committee as to Co-operation in Mysore

FROM The Registrar of Co-operative Societies in Mysore

No. 7893 Dated 29-3-37 Received 31-3-37

Diary No. 5345 Enclos. — Spare copies — Serial No. 86

BRIEF ABSTRACT OF LETTER

Requests orders on the several recommendations of the Committee in regard to the application of the Law of Limitation to Co-operative Credit Disputes.

NOTES AND ORDERS.

1) E.C 27-20 (18-20-25)
2) b.s. 67-25 (1-3).
Flag E

1) The marginally noted file on the question of the application of the law of limitation to Co-operative disputes are placed below for perusal

2) In Oct 1920 the Registrar of Co. brought to the notice of Govt that the question whether the Limitation Regulation applies to Co. disputes had arisen for consideration and requested instructions, in view of the fact that Co. disputs are increasing relating to them

NOTES—First Sheet

are not on the same footing as proceedings in a Civil Court and also in consideration of the heavy loss of money which will otherwise be incurred by Co-operative Societies, whether it is possible to keep co-operative disputes outside the operation of the Limitation Act at all events for the next two or three years. The Govt advocate who was consulted was of opinion that the Limitation Regulation applies to Co-s. disputs though no express provision to that effect is made in the Co-s. Regulation or the rules thereunder. Govt accepts the opinion of the Govt advocate and replies that the suggestion of the Registrar was not practicable. Flag F Paras 9-11

3) The question was taken up again in 1925 at the instance of the then Member. The Local Legislative Secretary was of opinion that there is no justification for the Co-s. to claim any immunity from the operation of the law of limitation and that the law should be made applicable to all claims which societies has against its debtors. The Registrar was requested to ascertain the practice in this respect in British India and also ~~eliminate~~ the loss that the co-operative societies may sustain by the apply of the law by the Registrar replies that a sum of Rs 2 lakhs was estimated to be the loss and forwarded a copy of letter from the Registrar U-P giving his opinion that the law of limitation does not Applies to Co-s. disputs. He suggested, as a way out of the to the old loans. Flag C & C 27-20-25 Flag G Paras (9-10) Flag I Flag P

Serial No.

difficulty, that the time barred disputs be
referred to arbitration, as he presumed that the
Limitation law did not apply to proceedings
of arbitrators and requested orders whether time
time barred disputs may be refd to arbitration
under bye rules, and whether the award passed
by them is binding on parties in such cases
and whether the limitation law applies to the
proceedings of arbitrators. The L. & L. Secretary was
also of opinion that the proceedings of arbitrators
do not come within purview of the law of
limitation and suggested that the practice in U.P
for the arbitration awards an executed terms
may be adopted in regard to the reference of disp
to arbitrators. Govt after careful consideration
directed the Registrar that disputs in which claims
have become time barred may be referred to arbitrators
in conformity with the provisions contained in Rule 16
instead of being rejected or dropped and that the
Societies may be asked to be more vigilant in future

4) The Committee on Co-operation have in their
report discussed the question of the applicability
the Law of limitation to the Co. disputes/ and have Co
to the conclusion that subject to any special provision
in the Co. Regulation like Sec 23 & 24 - the Arbitration

NOTE—Contn. Sheet.

WD 0417--GPB—30,000-8-9-36

Serial No.

in general contained in the
Law of Limitation do apply to Co-operative disputes, and
that in view of the special circumstances applicable
Co-operative Societies should have a longer period
of limitation than ordinarily available and
recommend the doubling of the usual period of limitation
for suits (other than those on hypothecation or mortgage)
when brought by or on behalf of Societies under the Co-operative
the benefit of the increased period ~~when~~ being given
to disputes referred within a specified time after the
enactment of the operative. They also recommend that
where a decision of the Registrar or of arbitrator has to be
referred to the Civil Court after the close of limitation for carrying
of the New Act limitation should be ~~only~~ to run
~~only~~ after the
termination of the New proceedings and upon a formal reference
by the Registrar to the Civil Court for execution, the starting
point being the date of issue of the sale certificate and
not that of confirmation of sale

5) The Registrar of Co-operative while forwarding his remarks
on the recommendations, states that the decisions of
the Civil Courts have made it clear that the Law of
Limitation applies to disputes of Co-operative Societies also
and that a strict application of the Law would be
disastrous to particularly rural Societies and recommends
that, if first Consider that the Law of Limitation applies
to Co-operative disputes, the recommendation of the Committee

Serial No.

fixing the period of limitation to six years for disputes other than on hypothecation or mortgage. by fixing a period of six months being allowed to societies within which ~~to~~ to file all disputes which have got time barred even under the new provision. We also recommend that the decisions of the Deptal officer or the award of the Arbitrators if filed within 3 years after the close of the inspections proceedings in the Revenue Dept should be deemed to be in time on a formal reference of the Registrar and also that the period within which applications for the grant of possession of properties purchased by societies in sales conducted by the Revenue Dept through Civil Court should be fixed at 3 years from the date of the issue of sale certificate by the Revenue Dept and not from the date of confirmation of the sales.

6) The Mysore Provincial Co-operative Conference held ~~recently~~ at Mysore in Oct 36 have resolved that the Law of Limitation be not made applicable to Co-operative disputes refd to the Registrar or arbitration for decision under the Co-operation. The Conference of Registrars of Co-operative Societies held at Delhi in Dec 36 discussed this question, and, without coming to a decision resolved to carry the matter next year.

7) Mr. B. R. Shivaramaiah has forwarded a note on the question wherein he argues that the matter of Co-operative

NOTE—Contn. Sheet.

WD 0417—GPB—80,000—8-9-36

5345

(65) File No. of 193 6 | General and Revenue Secretariat

Serial No.

being unilateral help + benefit on them is no meaning
in a defaulting member to urge the defence of limitation and
have all the benefit for himself of the money which he duly
owes to the society and which belongs to him and other members.
He also states that the section 43 A of Rules thereunder have been 6 words
to avoid interpretation of a judicial proceedings and
all technical rules of law and procedure
and when the award is to be given in accordance
with justice, equity and good conscience, plea or defence
of limitation is obviously out of question.

8) The Registrar of Cs. argues that a strict application
of this law would be disastrous particularly to rural
societies, but it is also true that the non-application
of the law and the assumption that the Law of limitation
does not apply to Cs. disputes have also perhaps
led to disastrous effect & on Cooperative Societies
in as much as the authorities of the Societies
have been made to sleep over the affairs
societies, particularly the recovery side. Instances
are perhaps not wanting in which the authorities
Concerned have failed to take proper action to effect
recoveries on the assumption that the Law of limitation
does not
apply to Cs. disputes or that even time barred dues
will be referred to arbitrators for decision in accordance
with instructions issued in Dec 1926.

9) It seems therefore, not inadvisable to accept

Application of the Law of Limitation to Co-operative ~~Disputes~~ Societies 5365

General and Revenue Secretariat — File No. 11 of 1936. [App. F. III—2

Serial No.	
	The recommendation of the Committee to apply the Law of Limitation to Co. disputes, fixing the period at six years for disputes other than on hypothecation or mortgage properties. sufficient time — Lay dismissal as proposed by the Registrar or even one year — being also to societies to get all time barred ~~disputes~~ disputes filed before the Registrar. Instructions may also be issued to the Dept to see that all time barred disputes are not filed The other two proposals of the Registrar may also be accepted - the period of Submitted for orders
	8/6/37)
121	Letter dated 4-6-37 from the P. Sitaramaiah Avvaru & the reply thereon relating to that the bye Regulations be so amended so as to bring the Co-op Courts as proper Courts for laying limitation in the execution of Co-operative Decrees
	10) Mr. Sitaramaiah states that the Civil Courts executing the Co. decrees have not been treated as Courts in order to have limitation and that the date is calculated from the date of the decision of the arrears and not the date of proceedings to the Civil Court by the Registrar after the implementation proceedings in Revenue Courts and requests that the Regulations and Rules may be so amended to enable the societies to execute decrees at any time within 12 years from the date of decree passed by the Registrar
	11) The Committee on Co-operation and the Registrar CS have dealt with the question and have recommended

NOTE—Contn. Sheet.

WD 0417—GPB—80,000—8-9-36

5345 & 6777 Applicability of the Law of Limitation to Cooperative Societies

General and Revenue Secretariat

File No. 11. of 1936.

Serial No.

that when the decision or award of a Registrar or arbitrator has to be referred to a Civil Court after the close of inquiries proceedings of the Revenue Department, limitation should only begin to run after the termination of the Revenue proceedings and upon a formal ~~proceedings~~ reference by the Registrar to the Civil Court for execution. Submit for orders.

11/6/37

The question whether the Law of Limitation applies to ~~Co-operative Societies~~ disputes under the Co-operative Societies' Regulation has been answered in the affirmative by the Committee on Co-operation. The position in regard to this point in the India has now been discussed by the Committee but has it been made clear in the Registrar's letter. It is understood that the question is under controversy in the Bombay presidency and that the Madras Govt in passing orders on Mr. Sathianathan's Report on Agricultural Indebtedness have observed as follows:-

"The Registrar has proposed

Serial No.

that the Madras Cooperative Societies Act 1932 should be amended so as to take away the operation of the law of limitation from Cooperative Societies and the amendment is separately under consideration".

(3) From the above extract it appears that in Madras it has been held that the limitation Act applies to disputes under the Cooperative Societies Act and that the Govt are contemplating to amend the ~~Act~~ Act to provide for Cooperative disputes being: exempted from the operation of the Law of limitation.

(4) In May 1935 the ~~Bihar~~ and Orissa Act was ~~was~~ amended and S 63 of the said Act now reads: "Notwithstanding anything of the provisions of the Indian limitation Act 1908, the period of limitation for debts including interest due to a registered society by a member thereof shall be computed from

NOTE—Contn. Sheet.

WD 0417—GPB—30,000—8-9-36

Serial No.

The date on which such ... dies or ceases to be a member of the Society—"

15) In the Conference of Registrars held at Delhi in Dec 1906 Mr. Austin, the Regr of Co-operative Societies Madras moved a resolution to the effect that the law be amended on the lines of S 63 of the Bihar and Orissa Act and in doing so, stated

"As the law stands at present, Co-operative Societies are not exempt in most provinces from the application of the Law of Limitation. In practice it is; in theory, it is a simple thing to save a loan from limitation, but in actual practice the office bearers of primary societies are not very highly educated men and they seldom have a knowledge of law. In the interest of the movement therefore it seems that a restricted application of the law is demanded—"

16) The Resolution was strongly opposed by Mr. Ramadas Pantulu and it was

Extract from the Proceedings of the Conference
DNo 6950
b.f. 48.36
pantulu
2314

Serial No.

resolved that the consideration of the question be deferred till next year.

h) In the 23rd Mysore Provincial Co-operative Conference held in Oct 36 Mr. B. R. Krishnamachar the president of the Basavangudi Co-operative Society moved the following resolution :-

"That the existing Co-operative Registration Act suitably amended so as to provide expressly for Co-operative disputes being exempted from the operation of the Law of Limitation".

i) He made a learned speech in support of the resolution and this speech has been published as a pamphlet.

j) The recommendations of the Committee on Co-operation in regard to this matter are summarised in page 224 of this report. The Registrar seems to be in favour of accepting all these recommendations in their entirety. These recommendations involve

WD 0417--GPB—30,000—8-9-36

Application of Law of limitation to ...
Co. Operative Societies

File No. 677 of 193 . General and Revenue Secretariat

Serial No.

a amendment of the Coop. Co operative Societies Regn Act re: the limitation Regulations as stated by the Registrar

Central Secy 20.6.37

GENERAL SECRETARY. 1- JULY 1937 3761

The Committee's discussion of the matter on pages 777 & 778 of the report is very lucid and convincing and the recommendation made is perhaps best as taking a middle course between a strict application of the law of limitation and complete absolution from it. The peculiar position of a society as creditor justifies some relaxation of the strict law but complete immunity is not desirable

1) The recommendation may perhaps be approved

Sd 17/7/37

Secy 12.7.37

Secd Member

2) Bracq I am in favour of adopting the recommendation of the Committee. But in a matter like this it is advisable to consult the High Court. May be submitted to the 1st Member

OFFICE OF THE SECOND MEMBER OF COUNCIL 12 JULY 1937 NO 222

1st Member

2) I agree. This may be done

Sd 14/7/37 Sd 14/7

Sd 29/7 Sd 29/7 Sd 14.7.37

OFFICE OF THE FIRST MEMBER OF COUNCIL 14 JULY 1937 PS

Application of the Law of Limitation to C.S. dispute 6777

General and Revenue Secretariat 6S File No. 11 of 1936 [App. F. III—2

Serial No.

25) Draft letter to the Registrar High Court submitting draft for approval
Sd
20/7/37
Typed

26) Fair draft
Sd
21.7.37

27) Fair draft submitted for approval
Sd
31/7/37
Typed

28) Letter C.S.G. Sd 2.8.37

29) Printed 3837

30) Issued Sd 3.8.37

Letter No D 1418 dated 10-8-37 to the Registrar High Court Calcutta for the opinion of the Judges of the High Court on the question

31) Draft reminder is submitted for approval
Sd
16/9/37
Typed

32) May wait till the end of the month
Sd
19.9.37

Letter No D.-Dis 82/37-38 dated 21-9-37 from the Registrar High Court furnishing the opinion of Judges of the High Court on the matter

33) It is submitted that the Order of the High Court on the question of applicability of the Law of

TYPING SECTION 3 AUG. 1937 GENL. & REV. SECTT.

Secs A Sd 10/8/37

GEN. & REV. 10 AUG. 1937 DEVELOPMENT BRANCH

GEN. & REV. SECRETARIAT 17 SEP. 1937 CLIENT BRANCH

NOTE—Contn. Sheet.

WD 0417—GPB—80,000—8-9-36

Application of the law of limitation to
677 of 1639 b.s. disputes

General and Revenue Secretariat

File No. of 193 6

Serial No.

Limitation to b.s. disputes. Govt also agree that the time suggested by the Committee. Subject with reference to Para 22 above

Ag 29/9/37

34) The High Court is in favour of the recommendations of the Committee

Secy (L.S.G.) 25.9.37

E. St

OFFICE OF THE SECOND MEMBER OF GOVT 27 SEPT. 1937 NO 2402

35) Refer paras 22 and 24

Secy 22.9.37

II member / I member

36) We may adopt it and take further action

Secy 27.9.37

OFFICE OF THE [illegible] OF GOVT. SEP 28 1937 1604

28/9/37

37) Sec 30/9

Secy 1.10.37

38) Draft G.O Subs for abbr

Ag 6/10/37

39) I have suggested a brief draft in the margin

Secy (L.S.G.) 9.10.37

2485/37 1639 Limitation & Cl. dispute

General & Revenue Secretariat. File No. 11 of 1936. [App. F. III–2

Serial No.

OFFICE OF THE SECOND MEMBER OF COUNCIL. 20 OCT. 1937 NO 3886

Typing section for list of pleaders with a typed copy

18/10/37

SECY. LOCAL SELF GOVT. 21 OCT. 1937 GOVT. OF MYSORE.

40) The proceedings may be kept in pencil pursuant to Rule 3 of the Rules framed under the Legal Practitioners Act, 1879 (XVIII of 1879) as amended by Act XXVI of 1926 and published in the Mysore Gazette dated 23.10.37

41) Typed draft sent

42) Secy d.v.g. 20.10.37

43) Secy 22.10.37

II Member

44) The draft may be returned by the Legis. Section.

25/10/37

45) Secy 25.10.37

46) The Corporation Committee have stated that the Limitation Regn. is not applicable to suits under the C.S. Regn. & accordingly to this section many of the suits would

NOTE—Contn. Sheet.

be barred by time. In order to save them from such a result it is proposed to provide for them being filed within a certain time and deemed to be in time. It is also proposed to generally fix a time of six years for suits under C.S. Reg for money lent other than by mortgage. under the Limitation Reg. the time for suits for money payable for money lent is three years. In the draft these recommendations are approved and action is directed to be taken to amend the law to give effect to them. It is for consideration whether suits, if any, dismissed as being barred by time can be revived by

Serial No.

by-legislations. Decisions may
Boards or Commissions.

SG 1/11/37 Some provision, that Suits notices had not been heard & dismissed Subd. for orders.

SG 1/11/37

47) Theproposed G.O.is in accordance with the suggestions of the Committee and may perhaps issue.

48) The Committee is of opinion that the benefit of the increased period when enacted should be given to disputes referred to within a specified time after the enactment comes into operation. It is understood that this benefit is intended to be given to cases which have become barred by time on the date the new enactment comes into force. i.e., to cases which are barred by time under the existing law.

49) If it is intended to apply to all cases barred by time without regard to the period when they became barred by time the recommendation would be too wide. There may be cases which became barred by time 10 or 20 years back. The creditor and the debtor may have reconciled themselves

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-3-37

Application of the rule of limitation to C.S. suit
1639

themselves to the fact that the claim was unenforce-
able on account of bar of time. This will unsettle
and reopen many barred claims and create confusion.
It seems desirable to restrict the ~~time~~ period of ~~two~~ time
for reviving barred debts by this new enactment. We
may say ~~that~~ that suits which ~~have~~ but for the extension of
of period of limitation would get time barred may be
filed before a certain date. By this all disputes
which became time barred within the last 3 years can
be revived. ~~The~~ Again the Assistant Registrars
might have held in some disputes that the claims
were barred by time. As there is already an adjudica-
tion it may not be proper to give the benefit of
the new enactment to such cases.

50) These are matters of detail and may be con-
sidered when the bill is framed.

Secy. L.S.G.)

bs
8/11

Refer paras 46 and 47. Office may
note the proposal

8/11/37

11 members).

9.11.37

10/11/37

Issue
10-11-37

SECY. LOCAL SELF GOVT
8. NOV. 1937
GOVT. OF MYSORE

No. 351

TYPING C...
10 ...
...

1639
D

General and Revenue Secretariat 65 File No. 11 of 1936. [App. F. III—2

Serial No.	
	G.O. No D 3633-43 dated 13/11/37 ~~directing~~ accepting the recommendation of the Committee

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

Amendment of Co-operative Societies Act

General and Revenue Secretariat | File No., of 193 | [App. F. III—2

Serial No.

7l, 3C,

1) The recommendation of the Co-operative committee re the exclusion of the period of limitation for disputes under the Co-operative Societies Act has been accepted by Govt. In this connection it has also been recommended that the principle of the excluded period should be given to disputes referred to arbitration as a pending case. As pointed out in para 6 & 9 of the note in C. S. file 11—36—304 (placed below) it may not be desirable to reopen all barred claims but exclude the benefit only to disputes which would be dismissed but for the excluded period.

2) A draft bill is put up implementing the above proposal and the

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

certificates redeemed subsequent
to the proposal. Of
the committee is that
it should be made
clear that when a decision
of the Regr is referred to
a civil court after the close
of registration proceedings
in the Rev Dept., limitation
should only begin to run
after the termination of
the revenue proceedings
and that the starting
point should be the
date of issue of the
certificate & not that
of the confirmation of sale.

It is not clear whether
certificates of the similar kind
that is referred to.

S. 1874 of the L. R code
provides for applications
being filed before civil
Court & courts having jurisdiction to decide matters of

P. 178 of the report.

Serial No.

possession. The Court dealing with such applications seems to be 167. The starting time for such applications is the date of receiving back 180 days with applns. for delivery of possessions & the starting time in that case is the date when the said documents also arrives. It is not clear if this section is referred to.

4) Other cases including bailiff are perhaps those which are not first sent to Rev. Dept. for execution and later returned unexecuted. They may then be sent to civil courts for execution. In such cases, the time taken by the Revenue Dept may not be excluded for the applns. before the Civil Courts to be in time

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-9-37

2990

Amendment of Co-operative Societies Act.

File No. of 193 . | General and Revenue Secretariat

under Act 1 & 2 of 1912 Limitation Act. The objects of the Committee may be gained if the officers of the Rev. Dept. concerned are deemed to be a civil court for this purpose. A similar amendment was made in madras in 1937. After orders on this point a section will be added in the Draft Bill. ~~Draft~~

Submd for orders.

5) Draft as revised by 7.2.38. Submd. with a typed draft Bill

6)

7) A draft bill has been proposed in accordance with the G.O. The places where the new clauses have to be inserted are indicated there in. It is suggested that only disputes which become barred by time within the 3 years of the date the Act comes into force — shd be granted be granted

F.C.W.

Amendment of Co-operative Societies Act

Sheet 43 A

2990

4-67

General and Revenue Secretariat

File No. of 193 . [App. F. III—2

5347/36

Serial No.

GOVT
SECOND MEETING COUNCIL,
10 FEB. 1938
No. 5858

if filed within months after the Act comes into force. If the intention is otherwise Appropriate necessary changes can be effected in the Bill.

Secy
L.S.G.)

hg
8-2

Jm

L.S.G. & REVENUE SECRETARIAT
4267
DEVELOPMENT BRANCH.

If approved this will be taken up along with other amendments proposed to be considered Subs.

RG
9.2.38.

Secy. L.S.G.)

Jm
9 2 38

RG
9/2

(1 member)

Jm
12/2/38

Jm
12-2-38

RG
9/2

OF MYSORE

Jm B file by the end of the month 38

14/2/38

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-9-37

1893 C.S.

GOVERNMENT OF MYSORE

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Telegraphic Adderss : "CO-OPERT" BANGALORE

C.S 11-36-86

Dated, Bangalore, 29th March 1937

31 MAR 1937

5345

From

GULAM MOHIYUDDIN MEHKRI, ESQ., B.A., LL.B.,
Registrar of Co-operative Societies in Mysore, Bangalore.

To

GENERAL SECRETARIAT
30 MAR 1937

V. Vedavyasacharya, Esq., B.A.,
General Secretary to the Government
of Mysore, B a n g a l o r e.

Sir,

I have the honour to invite reference to the recommendation of the Committee on Co-operation in Mysore on pages 175 to 178 regarding the application of the Law of Limitation to transactions of Co-operative Societies to state that the decisions of the Civil Courts have made it clear that Co operative Societies are not exempted from the application of the Law of Limitation. As a strict application of this Law, will be disastrous particula to rural societies, as the office-bearers who are mostly honorary workers have neither the time nor a specialised knowledge of law to save every loan from limitation, it is necessary in the interests of Co-operative Societies to consider whether their interests do not demand a restricted application of the Law of Limitation. This question was discussed at the recent Conference of Registrars held in Delhi in December last and the Conference wit out coming to any decision resolved to consider this matter at the next yea Conference. The Mysore Committee have however recommended that the usual period of limitation for suits other than suits on mortgage or hypothecatio may be doubled. If Government think that the Law of Limitation is applica ble to all Co-operative transactions, the recommendation of the Committee m be sanctioned and the period of limitation fixed at 6 years for disputes other than on hypothecation or mortgage of properties. Further as it was for a long time assumed that the Law of Limitation had no application to pr ceedings taken by Co-operative Societies, many time-barred debts were not sued. It is therefore necessary as recommended by the Committee that a per of six months should be allowed to societies within which to file all disputes which have got time-barred even under the new provision.

Again if the Law of Limitation is applicable to Co-operative Society disputes, the decisions of the Departmental Officers or the Award of the Arbitrators if filed within 3 years after the close of the infructuous pro-

proceedings in the Revenue Department should be deemed to be in time of a formal reference by the Registrar.

The period within which applications for the grant of possession of properties purchased by societies in sales conducted by the Revenue Officers through the Civil Courts should also be fixed at 3 years from the date of issue of the sale certificate by the Revenue authorities and not from the date of confirmation of the sales as it is found in very many cases, great delay occurrs in the issue of the sale certificate by the Revenue authorities, after confirmation of the sales.

As the above changes in the Law of Limitation are very necessary, in the interest of the Co-operative Movement, I request that early orders of Government may be obtained on these important recommendations of the Committee to enable suitable amendments being proposed to the Limitation Regulation.

I have the honour to be,
Sir,
Your most obedient servant,

M. S. [illegible]
Registrar.

L.S.27/3.

"CO-OPERATIVE DISPUTES AND LAW OF LIMITATION".

A Supplement.

The original intention of the Government of India and of Mysore regarding the co-operative movement was chiefly to strengthen the agricultural credit, to finance that basic industry of the country viz., agriculture, and to lighten the burden of agriculturists' indebtedness. It would not have been possible to attain these objects if agriculturists were made to undergo all the troubles and worries of an expensive and protracted litigation of their disputes in ordinary courts of law. (The scope of the movement has since been very much enlarged and -- extended to other fields during recent years).

Provision has, therefore, been made in the Co-operative Societies Regulation (Section 43 A) to refer any dispute touching the business of a registered Society to the Registrar of the Department (whom I call the guardian angel) for decision either by himself or by his nominee. Under Section 43 1, power is given to the Societies to refer all kinds of disputes arising among members etc.,-

viz., (a) disputes among members, and persons claiming through members etc.;

(b) disputes between a member etc., and the Society, its Committee, Officer, agent or servant;

(c) disputes between the Society or its Committee and its Officer, agent or servant;

and

(d) disputes between one registered Society and another registered Society;

and it is only by way of explanation that a claim for a debt or a demand is described to be a 'dispute' within the meaning of this Section. A special and prompt procedure is prescribed for a speedy disposal of all such 'disputes', and Rule 16 (Clause iv) of the Rules framed under the Co-operative Societies Regulation ordains that after evidence is recorded a decision by the Registrar or an award by the Arbitrator or Arbitrators shall be given in accordance with justice, equity, and good conscience. This evidently means that all technical rules of law and procedure have to be avoided in the disposal of such disputes.

I think it is, therefore, safe to conclude that if a claim is just, the alleged debtor (i.e., defaulting member) is bound to pay the debt, if the dispute relates to the recovery of a debt, irrespective of the question of time. It is his moral obligation to do so, and he must discharge it, and there is no injustice in denying to him the defence of limitation, if he should make one. As regards other disputes which are various and varied and which are of a domestic, disciplinary, and administrative nature, it is futile to contend that the technical defence of limitation is available to the party complained against.

Bangalore City
17th Novr., 1936

B. R. Krishnamachar, B.A., B.L.,
President,
The Basavangudi Co-operative Society,
and Ltd
Retired District & Sessions Judge.

This reference relates to the amendment of the Co-operative Societies Regn., and as such has to be worked up in the Dev: Br.

As regards the point raised in the last para of the letter, legal opinion may be obtained when and if necessary.

for The Registrar Co-op Societies

Dear Mr B.M. Rao, Superintendent
I understand
from Mr S. Sampathkumar
the Case Stated for the
opinion of your Court and
referred to this
Bench for
hearing and disposal.
Today
Mr. Sampathkumar
Mr. Rao
for the
Revenue
for examining the
of C.B.'s
Counsel

6846-P

LAW & REV. SECRETARIAT
8 JUNE 1937
DEVELOPMENT BRANCH

6777

Cs. 11-36-121

CHIEF SECRETARY
5 JUN 193-
GOVT. OF MYSORE

From

P. Sitaramiah, B.A., B.L.,
Advocat. & Member, Representative
Assembly, MYSORE.

To

The Chief Secretary,
the Government of His Highness
the Maharaja of Mysore, BANGALORE.

Sir,

I have the honor to bring to your kind notice that the existing rules, framed under Co-operative Societies Regulation regarding execution of Co-operative decrees, require certain alterations and additions. It may also be necessary to amend the regulation so as to bring the Revenue Courts as proper Courts for purposes of saving limitation for executing Co-operative Decrees.

As a consequence of a case (reported in 43 Madras Law Weekly, page 58) decided by Justice Garnish of the Madras High Court, the Government of Madras have amended the Regulation and formulated Rules regarding execution of Co-operative decrees (Sects.57.A. and B and Rules XXII). vide 43. M. L. W. 58. 47. Mad. 217.

Some of our local Courts have expressed their opinion that the Revenue Authorities executing decrees passed by the Registrar of Co-operative Societies, have not

have not been described as proper courts to execute decrees in order to save limitation when such decrees are later on transferred to Civil Courts for execution. They are likely to be treated as decrees barred by time although they might be pending before the Revenue Authorities all the previous three years. Under these circumstances, it is desirable to introduce a rule stating that the Revenue Courts (or the Assistant Registrar's Court) are the proper executing courts for purposes of decrees and awards passed by the Registrar of Co-operative Societies and action taken for the realisation of such decrees would save time for purposes of limitation (vide 57.B. of the Madras Co-operative Societies' Act of 1932).

The existing Rule regarding execution of decrees is as follows (Rule No.16.vii).

> "Where the decision or award involves the payment of money or delivery of grain and such payment is not made within one week or such further time as may be allowed by the Registrar, the Registrar shall send a copy of the decision or award to the Deputy Commissioner for its enforcement who shall thereupon enforce it as if it were a demand for arrears of land revenue. Provided that the Registrar may, on the application of the Decree-holder, send such decree for execution to the Civil Court having jurisdiction over the subject matter of the decree or award instead of sending it to the Deputy Commissioner as aforesaid, whereupon, such court shall execute the decision or award as if it were a decree passed by itself. Where the decision or award involves the payment of money and the person or persons against whom the decision or award is made are employed in the permanent or temporary service of the Government of His Highness the Maharaja of Mysore, or of any local authority within the Mysore State, the Registrar may send the decision or award to the Head of Office or Department or local authority in which the persons are employed for enforcement and such officer shall execute it as if it were a decree of a Civil Court."

Under this rule two difficulties may arise.

In the first place whether the privise clause is to act as an alternative relief or as reliefs one excluding the other. Doubts also might arise as to whether the decree holder Society should move the Registrar to transfer such decrees for realisation before the same should be referred to the Deputy Commissioner and not after the Revenue authorities are not able to recover the amount as demand for arrears of land revenue. The next difficulty which is more serious is that the Revenue Authorities are not constituted proper courts for purposes of execution of decrees but only to recover the dues as amounts of demand for arrears of land revenue and as such the steps taken before the Revenue auth rities will not save limitation if these decrees are transferred to Civil Courts after three years from the date of the passing of the decree by the Registrar.

There are a good number of decrees of more than three years, partly realised and some unrealised, held by many Co-operative institutions. Most of these decrees are likely to be realised by taking out arrest warrants against the Judgment debtors before a Civil Court of Law which relief is not open before the Revenue Authorities. Under these circumstances, I feel that there is a necessity for framing new rules corresponding to the Madras Act and Rules framed thereunder.

As a person

As a person interested in the progress of Co-operative Movement and as a non-official worker in this movement for some years, I request you to move the Government to take necessary steps to amend the Regulation if necessary and introduce such Rules as are necessary to avoid all further difficulties regarding the execution of these decrees before Civil Courts, any time within 12 years from the date of the decrees passed by the Registrar of Co-operative Societies.

I have the honor to be,

Sir,

Your most obedient servant,

P. Sitaramiah

Advocate & Member
Representative Assembly,
Mysore.

Mysore,
+- 6-1937

Appendix F G—1]

SUBJECT .....

.....

.....

Section 65
File No. 11-36
Serial No. 151

Diary No. of letter replied to.....

No. D 1418/Ea1

To The Registrar High Court of Mysore Bangalore

Sir

I am directed to forward herewith a copy of letter No 7893 dated 29-3-37 from the Registrar Co-op. urging the need for effecting ~~of~~ some changes in the Law of Limitation in the interest of the Co-operative movement and to state that the Committee on Co-operation have examined ~~the~~ the question of the applicability of the Law of Limitation to the transactions of Co-operative Societies, in their report and made certain recommendations for adoption in the State. (Pars 175-178) A copy of the report is sent herewith

General and Revenue Secretariat

( )

the *193* .

Date of issue..... 10-8-37

Signed by ..... M. K. Subba Rao.

List of enclosures.....

Copied by .....

Examined by.....

for reference

It seems to first that the recommendations made by the Committee are suitable to the conditions prevailing in Europe steering, as they do, a middle course between the strict application of the law and complete immunity ~~from~~ Therefrom and that the peculiar position of a Cooperative society as creditor perhaps justifies some elaboration of the strict law, which complete immunity may not be desirable

Before however coming to any final decision on the question, Govt would like to have the views of the High Court on the recommendations of the Committee in regard to this ~~matter~~

I am therefore to request you to kindly place the matter before the Hon'ble Judges and forward their opinion to Govt at a very early date

Yr. obdt. etc

Yrs

2.8.29 Ls & Dept

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. D 1418/ C.S 11-36-15/ Ex/ Dated, Bangalore, 7th August 1937. 104

From

The *Secretary to the Government of His Highness the Maharaja of Mysore.*
Local-Self Government Department.

To

The Registrar, High Court of Mysore,
Bangalore.

Sir,

I am directed to forward herewith a copy of letter No.7893 dated 20th March 1937 from the Registrar of Co-operative Societies urging the need for effecting some changes in the Law of Limitation in the interest of the co-operative movement and to state that the Committee on co-operation have examined the question of the applicability of the Law of Limitation to the transactions of co-operative societies, in their report and made certain recommendations for adoption in the State (pages 175-178). A copy of the Report is sent herewith for reference.

It seems to Government that the recommendations made by the Committee are suitable to the conditions prevailing in Mysore steering, as they do, a middle ~~cource~~ Course between the strict application of the law and complete immunity therefrom and that the peculiar position of a co-operative society as creditor perhaps justifies some relaxation of the strict law, which complete immunity may not be desirable.

Before however coming to any final decision on the question, Government would like to have the views of the High Court on the recommendations of the Committee in regard to this matter.

I am therefore to request you to kindly place the matter before the Hon'ble Judges and forward their opinion to Government

at a very early date.

I have the honour to be,
Sir,
Your most obedient servant,

for Secretary to Government,
L.S.G. Department.

CS 11-36-167

22 SEP 1937

R. O. C. No. 82/37—38
Dis.

HIGH COURT OF MYSORE
Public Office Buildings, Cubbon Park,

Bangalore, 21st September *1937.*

1639

FROM T. Shamiengar, Esq., B.A., B.L.,
~~A. Sundararaja Rao, Esq., B.A., B.L.,~~
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

LOCAL SELF GOVT
22 SEP 1937
GOVT OF MYSORE

To H. Krishna Rao, Esq., M.A.,
Secretary, Local Self-Government Department,
Government of Mysore,
BANGALORE.

Dev. Branch
2
22/9/37

SIR,

With reference to your letter No.D.1418/C.S.11-36-151 dated 10th August 1937 forwarding a copy of letter No.7893 dated 29th March 1937 from the Registrar of the Co-operative Societies urging the need for effecting some changes in the Law of Limitation in the interest of the Co-operative Movement and stating that the Committee on Co-operation have examined the question of the applicability of the Law of Limitation to the transactions of Co-operative Societies in their report and made certain recommendations for adoption in the State and requesting the views of the High Court on the recommendations of the Committee in the matter, I am directed to state that the Judges of the High Court are of opinion that it is desirable and necessary to extend the period of limitation prescribed by the Mysore Limitation Regulation in regard to the suits of the kind referred to by the Committee for more reasons than one, In the first place, the committees managing the affairs of Co-operative Societies are not ordinarily prompt in taking action in such cases within the time prescribed by the Regulation, consisting as they do in most cases of honorary workers who can only gi their spare time to such work, and that as has been pointed out by the Committee, a certain amount of forbearance and indulgence is necessary as between a Society and its members, and, therefore, application of the ordinary period of limitation that applies to the cases of creditor and debtor is not desirable and a much longer period would be appropriate. But such a course can properly be adopted only by legislation.

The period suggested by the Committee appears to be appropriate and adequate. In view of the fact that owing to the erroneous impression

impression that the Limitation Regulation does not apply to suits relating to Co-operative Societies several claims have got barred, it appears to be desirable to provide, in the Legislation to be undertaken, for a certain period being fixed, as suggested by the Committee, within which to file all such suits and to provide that such suits, if filed within that period, should be deemed to have been filed in time.

I have the honour to be,
Sir,
Your most obedient servant,

J. Shanmugam

Registrar.

MRK

KVN/AH

12 copies

Proceedings of the Government of H.H. the Maharaja of Mysore.

Read:-

.The following recommendations of the Committee on Co-operation in the matter of the application of the Law of Limitation to disputes under the Co-operative Societies' Regulation:-

"On the difficult question whether disputes under the Co-operative Societies Regulation are or are not governed by the articles in the Limitation Regulation applicable to suits, the Committee's conclusion is that, -- subject to any special provisions in the Co-operative Societies Regulation, like sections 23 and 24, -- the articles as to suits in general contained in the Limitation Regulation do apply to disputes.

In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Regulation. A general provision doubling the usual period of limitation for suits (other

other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation seems reasonable and desirable. The benefit of the increased period, when enacted, should be given to disputes referred within a specified time after the enactment comes into operation.

"The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale)"

2. Letter No.7893/C.S. dated the 29th March 1937 from the Registrar of Co-operative Societies furnishing his

his opinion on the question.

3. Correspondence ending with letter No.82/37-38 dated the 21st September 1937 from the Registrar of the High Court of Mysore furnishing the views of the High Court on the recommendations of the Committee.

Order No.D. 7633-43/C.S.II-31-204

Bangalore, 13th Nov 1937.

The Registrar of Co-operative Societies reports that several decisions of Civil Courts have made it clear that co-operative societies are not exempt from the application of the Law of Limitation. As a strict application of this Law, however, will be ~~disastrous~~ detrimental to the interests of societies, particularly ~~to~~ rural societies, as the office-bearers who are mostly honorary workers, have neither the time nor the specialised knowledge of law, to save every loan from limitation, he is of opinion that a general provision doubling the usual period of limitation for suits (other than suits on hypothecation or

or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation is reasonable and desirable, as recommended by the Committee, and that the period of limitation may be fixed at six years.

Further, in view of the fact that owing to the erroneous impression that the Limitation Regulation does not apply to suits relating to Co-operative Societies, several suits have got barred, he recommends that it is desirable to provide in the legislation to be undertaken for a certain period being fixed, as suggested by the Committee within which to file all such suits, and to provide that such suits, if filed within that period should be deemed to have been filed in time.

2 The Judges of the High Court are also of the opinion that it is desirable and necessary to accept these recommendations.

3 Government are accordingly pleased to accept the said recommendations of the Committee. 4 They also ~~the other two~~ approve of the other recommendations~~, namely, that limita-~~

of the committee that when the decision of the Regr or of an arbitrator (*.) and not that of the confirmation of the sale" (vide para 2 of the draft) Action will be taken in the course to amend the law so as to give effect to the above decision

limitation should begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution in the circumstances ~~stated~~ mentioned to the Committee and that the starting point of limitation should be the date of issue of the sale certificate and not the date of confirmation of sale.

The Registrar is requested to suggest suitable draft amendments to the Regulations concerned.

25/11/37

21/11/37

Secretary to Government,
L.S.G. Department.

To

The Registrar of Co-operative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore, with a a covering letter

Copy to Revenue Branch.
" to Protection Branch. for info

Action

vvk.

App. F. VI G 10.

639.
CS-11-36

Sent to Protection Branch for their DO No. 2998 dt 23/11/37

Government of His Highness the Maharaja of Mysore.

P.B. No 17/Encl.

GENERAL AND REVENUE DEPARTMENTS

LCE Nov 37.

G. O. No. D 3633-43/CS-11-36-204 DATED 12/13th November 1937

May this be

i. printed? Yes

ii. treated as a standing order? Yes

iii. published in the Gazette English Part?
iv. translated?
v. placed at the disposal of the press?
vi. published in the Gazette Kannada Part?

} Yes

Law of Limitation.

Passes orders regarding the application of the ——— to Co-operative society disputes.

16/11/37

PRESS SECRETARIAT
Received 17 NOV. 1937.
Despatched 17/11/37
GOVT. BRANCH

16.11.37

Proceedings of the Government of His Highness
the Maharaja of Mysore.

R e a d :-

The following recommendations of the Committee on Co-operation in the matter of the application of the Law of Limitation to disputes under the Co-operative Societies' Regulation:-

"

On the difficult question whether disputes under the Co-operative Societies Regulation are or are not governed by the articles in the Limitation Regulation applicable to suits, the Committee's conclusion is that, -- subject to any special provisions in the Co-operative Societies Regulation, like sections 23 and 24, -- the articles as to suits in general contained in the Limitation Regulation do apply to disputes.

" In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Regulation. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation seems reasonable and desirable. The benefit of the increased period, when enacted, should be given to disputes referred within a specified time after the enactment comes into operation.

" The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale."

Letter No.7893/C.S. dated the 29th March 1937 from the Registrar of Co-operative Societies furnishing his opinion on the question.

3. Correspondence ending with letter No.82/37-38 dated the 21st September 1937 from the Registrar of the High Court of Mysore, furnishing the views of the High Court on the recommendations of the Committee.

O R D E R NO. D 3633-43/C.S 11-36-204

Dated, Bangalore, the 12th November 1937.
13 a

The Registrar of Co-operative Societies reports that several decisions of Civil Courts have made it clear that co-operative societies are not exempt from the application of the Law of Limitation. As a strict application of this Law, however, will be detrimental to the interests of Societies particularly rural societies, as the office-bearers, who are mostly honorary workers, have neither the time nor the specialised knowledge of law to save every loan from limitation, he is of opinion that a general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation is reasonable and desirable, as recommended by the Committee, and that the period of limitation may be fixed at six years.

Further, in view of the fact that owing to the erroneous impression that the Limitation Regulation does not apply to suits relating to Co-operative Societies, several suits have got barred, he recommends that it is desirable to provide in the legislation to be undertaken for a certain period being fixed, as suggested by the Committee within which to file all such suits, and to provide that such suits, if filed within that period, should be deemed to have been filed in time.

The Judges of the High Court are also of opinion that it

is

is desirable and necessary to accept these recommendations.

Government are accordingly pleased to accept the said recommendations of the Committee.

They also approve of the other recommendations of the Committee that when the decision of the Registrar or of an arbitrator ~~when~~ has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

Action will be taken in due course to amend the law so as to give effect to the above decisions.

(Sd) P. H. Krishnaraj

Secretary to Government,
L.S.G.Department

To

The Registrar of Cooperative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore, with a covering letter.

Press Copy

By order

K Seetharam

For Secretary to Government
L.S.G. Department

mk.12.

S. O.

Government of his highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. D. 3633-43—C. S. 11-36-204, dated 12—13th November 1937.

Law of Limitation.

Passes orders regarding the application of the —— to Co-operative Society disputes.

READ—

The following recommendations of the Committee on Co-operation in the matter of the application of the Law of Limitation to disputes under the Co-operative Societies' Regulation.

"On the difficult question whether disputes under the Co-operative Societies Regulation are or are not governed by the articles in the Limitation Regulation applicable to suits, the Committee's conclusion is that,—subject to any special provisions in the Co-operative Societies Regulation, like Sections 23 and 24,—the articles as to suits in general contained in the Limitation Regulation do apply to disputes.

"In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Regulation. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation seems reasonable and desirable. The benefit of the increased period, when enacted, should be given to disputes referred within a specified time after the enactment comes into operation.

"The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187-A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue Proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale."

2. Letter No. 7893—C. S., dated the 29th March 1937, from the Registrar of Co-operative Societies, furnishing his opinion on the question.

3. Correspondence ending with letter No. 83—37-38, dated the 21st September 1937, from the Registrar of the High Court of Mysore, furnishing the views of the High Court on the recommendations of the Committee.

ORDER No. D. 3633-43—C. S. 11-36-204, DATED BANGALORE, THE 12—13TH NOVEMBER 1937.

The Registrar of Co-operative Societies reports that several decisions of Civil Courts have made it clear that co-operative societies are not exempt from the application of the Law of Limitation. As a strict application of this Law, however, will be detrimental to the interests of Societies particularly rural societies, as the office-bearers, who are mostly honorary workers, have neither the time nor the specialised knowledge of law to save every loan from limitation, he is of opinion that a general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation is reasonable and desirable, as recommended by the Committee, and that the period of limitation may be fixed at six years.

2. Further, in view of the fact that owing to the erroneous impression that the Limitation Regulation does not apply to suits relating to Co-operative Societies, several suits have got barred, he recommends that it is desirable to provide in the legislation to be undertaken for a certain period being fixed, as suggested by the Committee within which to file all such suits, and to provide that such suits, if filed within that period, should be deemed to have been filed in time.

3. The Judges of the High Court are also of opinion that it is desirable and necessary to accept these recommendations.

4. Government are accordingly pleased to accept the said recommendations of the Committee.

5. They also approve of the other recommendations of the Committee that when the decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187-A of the Mysore Land Revenue Code), limitation should only begin to run after the terimination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

6. Action will be taken in due course to amend the law so as to give effect to the above decisions.

P. H. KRISHNA RAO,
Secretary to Government,
Local Self-Government Department.

To—The Registrar of Co-operative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore.

Exd.—C. K.

WD 849—GPB—640—23-11-37

Appendix F G—1]

SUBJECT ..... Two b/s

.....

.....

Section b/s

File No. 11-36

Serial No.

Diary No. of letter replied to.....

No. D 3746/37

To

The Registrar High Court of Lucknow

General and Revenue Secretariat

( )

the *193* .

Sir

I am directed to forward for information of the Judges of the High Court herewith a Copy of G.O. No. D /b.s. 11-36 dated the Nov 37 re the application of the Law of Limitation to C.S. disputes as per recommendations of the Committee on Cooperation in Lucknow

Date of issue 15-11-37

Signed by M. H. Subba Rao

Two b/s of Covering letters are sent for addressed

10/11/37

Thanks

List of enclosures.....

Copied by .....

Examined by.....

Sec. L. Dept

P. T. O

D 3742 15-11-37 Two Bks

Tel 2

To Rajadhyakshaprasad

Dewan Bahadur

K.S. Chandrasekhara Iyer

BABL

Retired Chief Justice

& the Chief Court of Mysore

Basavanagudi Bangalore City T.S

Dear Sir, Draft Govt Order please

I am directed to forward herewith for information a copy of G.O. No D /Cs-11-36 dated Nov 37 re the Application of the Law of Limitation in Cs. disputes as per recommendations of the Committee on Co-operation

15/11/37 (Sd) M. P. A Krishna Rao

Yours obdt servt

Secy. to Govt

Proceedings of the Government of His Highness the Maharaja of Mysore.

R e a d :-

The following recommendations of the Committ Co-operation in the matter of the application of the Law of Limitation to disputes under the Co-operative Societies' Regulation:-

" On the difficult question whether disputes under the Co-operative Societies Regulation are or are not governed by the articles in the Limitation Regulation applicable to suits, the Committee's conclusion is that, -- subject to any special provisions in the Co-operative Societies Regulation, like sections 23 and 24, -- the articles as to suits in general contain in the Limitation Regulation do apply to disputes.

" In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Regulation. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation seems reasonable and desirable. The benefit of the increased period, when enacted, should be given to disputes referred within a specified time after the enactment comes into operation.

" The opportunity may also be taken to make it clear that when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale."

2. Letter No.7893/C.S. dated the 29th March 1937 from the Registrar of Co-operative Societies furnishing his opinion on the question.

3. Correspondence ending with letter No.82/37-38 dated the 21st September 1937 from the Registrar of the High Court of Mysore, furnishing the views of the High Court on the recommendations of the Committee.

O R D E R NO. D 3633-43/C.S. 11-36-204

Dated, Bangalore, the 12th/13th November 1937.

The Registrar of Co-operative Societies reports that several decisions of Civil Courts have made it clear that co-operative societies are not exempt from the application of the Law of Limitation. As a strict application of this Law, however, will be detrimental to the interests of Societies particularly rural societies, as the office-bearers, who are mostly honorary workers, have neither the time nor the specialised knowledge of law to save every loan from limitation, he is of opinion that a general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Regulation is reasonable and desirable, as recommended by the Committee, and that the period of limitation may be fixed at six years.

Further, in view of the fact that owing to the erroneous impression that the Limitation Regulation does not apply to suits relating to Co-operative Societies, several suits have got barred, he recommends that it is desirable to provide in the legislation to be undertaken for a certain period being fixed, as suggested by the Committee within which to file all such suits, and to provide that such suits, if filed within that period, should be deemed to have been filed in time.

The Judges of the High Court are also of opinion that it

2990/37
P 37

is desirable and necessary to accept these recommendations.

Government are accordingly pleased to accept the said recommendations of the Committee.

They also approve of the other recommendations of the Committee that when the decision of the Registrar or of an arbitrator ~~xhxx~~ has to be referred to the Civil Vourt after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only be in to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

Action will be taken in due course to amend the law so as to give effect to the above decisions.

By Order,
Secretary to Government,
L.S.G.Department

To

The Registrar of Cooperative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore, with a covering letter.

Copy to Protection Branch for further action

20 Dec. Rep. for kind ly putting up C.S file 11-3.6-207 and a copy of the Committee report for perusal & return

mk.12.

The file is put up herewith. A copy of the Report may kindly be obtained from the Secl Record. Protection Branch

23/12/37

Bill further to amend the Co-operative Societies Act, 1918.

....

Whereas it is now recognised that the law of limitation is applicable to disputes under the Co-operative Societies Act, 1918 and whereas it is expedient to further amend the said Act; accordingly it is hereby enacted as follows:-

1. This Act shall be called the Co-operative Societies Amending Act, 193___

2. After Section 43 A of the Mysore Co-operative Societies Act, 1918 (hereinafter referred to as the said Act), the following new section shall be inserted, namely :-

"43 AA (1) The period of limitation in respect of disputes referred to in sub-section (1) of section 43 A (other than disputes to enforce payment of money charged on immovable property) shall be twice the period of limitation prescribed by the Limitation Act for similar suits. (2) All disputes which, but for the passing of this Act, would have been barred by time within three years preceding the date on which this Act comes into force shall be deemed to have been filed in time, if filed within six months from the date this Act comes into force."

3. After section 43 (6) of the said Act the following new section shall be inserted, namely :-

"43 (1) Notwithstanding anything contained in Art. 180 of the First Schedule to the Mysore Limitation Act, 1911 application

to a Civil Court for delivery of possession by a purchaser of immovable property at a sale under Section 43 C (1) (b) shall be filed within three years from the date of issue of the sale certificate by the Deputy Commissioner".

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